IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8181 of 2006
With
SPECIAL CIVIL APPLICATION No. 8183 of 2006

For Approval and Signature:

HONOURABLE MS. JUSTICE R.M.DOSHIT

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

G R MAHIDA - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

==========

Appearance :
MR.I.S. SUPEHIA for Petitioner(s) : 1,
MS.MITA S. PANCHAL, ASST.GOVERNMENT PLEADER for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 1 - 3.

==========

CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 05/09/2006

ORAL JUDGMENT

Rule returnable today. Ms.Panchal waives service of notice of rule.

With the consent of the learned advocates, the petitions are heard and disposed of today.

These two petitions challenge the Resolution dated 20th May, 2005 passed by the State Government reducing the pay of the petitioners.

The petitioner in each of these petitions was initially appointed by Umreth Municipality in its Hospital as a Driver and a Sweeper respectively on a consolidated pay. In the year 2000 or thereabout, the State Government decided to take over the management of the said hospital and to run the same as Community Health Center. Consequently, by Resolution dated 30th September, 2000 passed by the State Government the employees in the said hospital were absorbed in the service of the State Government on the terms and conditions mentioned therein. One of the said conditions provided that the concerned employee must have served atleast for two years in the hospital run by the Municipality. Alongwith the others, the petitioners herein also were absorbed in

the Government service on regular pay-scales. It appears that later on it was learnt that the information supplied by the Municipality was not correct. These two petitioners were not the regular employees of the Municipality and were appointed on consolidated pay. Therefore, by impugned Resolution the order of absorption of the petitioners in Government service in regular pay-scale has been cancelled and both these petitioners are absorbed in Government service with effect from the date of the said order on a consolidated pay of Rs.2,500/- and Rs.1,350/- respectively. Feeling aggrieved, the petitioners have preferred the present petitions.

One of the grievances of the petitioners is that before reducing their pay and the status in Government service they were not afforded opportunity of hearing. Ms.Panchal admits that neither of the petitioners was given opportunity to represent against the intended action of the State Government.

In above view of the matter, the petitions are required to be allowed on the ground of breach of

principles of natural justice. The petitions are accordingly allowed. The impugned Resolution dated 20th May, 2005 is quashed and set aside on the ground of breach of principles of natural justice alone. Consequently, the petitioners shall be paid the salary in the regular pay-scale in which they were receiving the salary prior to the date of the impugned order. Arrears, if any, shall be paid to the petitioners within three months from today.

Rule is made absolute in the above terms with cost. Registry shall maintain copy of this order in each petition.

(MS.R.M.DOSHIT, J.)

sompura